

Anand

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.687 OF 2017

Swati Ajay Tupe .Applicant

Vs.

The State of Maharashtra .Respondent

WITH

CRIMINAL APPLICATION NO.526 OF 2017

(For Intervention)

IN

ANTICIPATORY BAIL APPLICATION NO.687 OF 2017

Sachin Vitthal Pawar .Intervenor

IN THE MATTER BETWEEN

Swati Ajay Tupe .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.Ritesh Thobade, Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent – State
Mr.M.Avhale i/b. Mr.S.V.Wasnik, Advocate, for
the Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 12.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C.R.No.345 of 2016 registered with the Hadapsar Police Station, Pune, for the alleged offences punishable under Sections 143, 147, 149, 406, 420, 464A, 389, 392, 120B of the Indian Penal Code.

3. Learned counsel for the Applicant submits that the Applicant is the sister-in-law of the Complainant. He further submits that as far as the Applicant is concerned, the Applicant is only alleged to have asked the Complainant to invest money with the accused No.1 i.e. Ajay Tupe(Applicant's husband). He submits that the Applicant is a Government servant.

4. Learned APP opposes the Application. Learned counsel for the Intervenor also supports the learned APP.

5. Perused the papers. It appears that the Complainant had sold his ancestral land and had received a sum of Rs.30,00,000/-. According to the Complainant, accused No.1 - Ajay Tupe alongwith his wife Sujata (Original Accused No.2) and the Applicant, had asked him to invest the said sum of Rs.30,00,000/- in the plotting and development business, so as to obtain 30% profit. Pursuant to the same, the Complainant invested Rs.30,00,000/- with the accused No.1 - Ajay Tupe. It is further alleged by the Complainant that the accused No.1- Ajay Tupe again persuaded him to invest Rs.70,00,000/- in the business and hence he invested a further sum of Rs.70,00,000/-, due to his persuasion and as accused No.1 - Ajay Tupe, was his wife's brother. It also appears, that the accused No.1 - Ajay Tupe has admitted his liability and had issued 4 post-dated cheques which were dishonoured. Although, it is alleged by the Complainant that the Applicant also assaulted

him in the incident which took place on 26.06.2015, a copy of the N.C. which is at page No.12 of the Intervention Application shows, that the Applicant's name has not been disclosed by the Complainant in the said N.C. The N.C. specifically names the Applicant's husband – Ajay Tupe, Anna Gavade and Anna's Gavade's nephew and not the Applicant. Since it was alleged that a sum of Rs.2,10,000/- was transferred by the Complainant's wife to the Applicant, the Applicant deposited an amount of Rs.2,10,000/- in the Registry of this Court, vide Order dated 06.06.2017. The said amount was deposited by the Applicant, without prejudice to her rights & contentions. It is informed that charge-sheet is filed and the main co-accused – Ajay Tupe has been enlarged on bail.

6. In the facts of this case, considering the Applicant's role, custodial interrogation of the Applicant is not required. Accordingly, the

Application is allowed and the Applicant is granted pre-arrest bail on the following terms & conditions:-

O R D E R

(i) In the event of arrest, the Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.25,000/-** with one or two sureties in the like amount;

(ii) The Applicant shall report to the investigating officer of the concerned police station **as & when called for** by the investigating officer or for a period of three months whichever is earlier;

(iii) The Applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(iv) As far as the amount of Rs.2,10,000/- deposited by the Applicant in the Registry of this Court is concerned, same shall be invested by the Registry of this Court initially for a

period of one month from today in any Nationalized Bank and thereafter, from time to time;

(v) Learned Judge shall pass appropriate order on the said amount so deposited at the conclusion of the trial.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. In view of disposal of the Application, the Intervention Application does not survive and the same stands disposed of accordingly.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated
copy of this order.

(REVATI MOHITE DERE, J.)